

**SENATE, No. 1311**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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INTRODUCED FEBRUARY 27, 2014

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

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**SYNOPSIS**

Eliminates transfer inheritance tax and increases filing threshold and applicable exclusion amounts under New Jersey estate tax in accordance with provisions of federal tax law.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/2/2014)**

1   **AN ACT** eliminating the transfer inheritance tax and amending the  
2       New Jersey estate tax in accordance with the filing threshold and  
3       exclusion amounts provided under federal tax law, repealing  
4       parts of the statutory law and amending R.S.54:38-1.

5  
6       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7       *of New Jersey:*

8  
9       1.   R.S.54:38-1 is amended to read as follows:

10       54:38-1. a. **[In addition to the inheritance, succession or legacy**  
11       **taxes imposed by this State under authority of chapters 33 to 36 of**  
12       **this title (R.S.54:33-1 et seq.), or hereafter imposed under authority**  
13       **of any subsequent enactment, there]** There is hereby imposed an  
14       estate or transfer tax:

15       (1) Upon the transfer of the estate of every resident decedent  
16       dying before January 1, 2002 which is subject to an estate tax  
17       payable to the United States under the provisions of the federal  
18       revenue act of one thousand nine hundred and twenty-six and the  
19       amendments thereof and supplements thereto or any other federal  
20       revenue act in effect as of the date of death of the decedent, the  
21       amount of which tax shall be the sum by which the maximum credit  
22       allowable against any federal estate tax payable to the United States  
23       under any federal revenue act on account of taxes paid to any state  
24       or territory of the United States or the District of Columbia, shall  
25       exceed the aggregate amount of all estate, inheritance, succession or  
26       legacy taxes actually paid to any state or territory of the United  
27       States or the District of Columbia, including inheritance, succession  
28       or legacy taxes actually paid this State, in respect to any property  
29       owned by such decedent or subject to such taxes as a part of or in  
30       connection with the estate; and

31       (2) (a) Upon the transfer of the estate of every resident decedent  
32       dying after December 31, 2001 which would have been subject to  
33       an estate tax payable to the United States under the provisions of  
34       the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.),  
35       in effect on December 31, 2001, the amount of which tax shall be,  
36       at the election of the person or corporation liable for the payment of  
37       the tax under this chapter, either

38       (i) the maximum credit that would have been allowable under  
39       the provisions of that federal Internal Revenue Code in effect on  
40       that date against the federal estate tax that would have been payable  
41       under the provisions of that federal Internal Revenue Code in effect  
42       on that date on account of taxes paid to any state or territory of the  
43       United States or the District of Columbia, or

44       (ii) determined pursuant to the simplified tax system as may be  
45       prescribed by the Director of the Division of Taxation in the

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 Department of the Treasury to produce a liability similar to the  
2 liability determined pursuant to clause (i) of this paragraph reduced  
3 pursuant to paragraph (b) of this subsection.

4 (b) The amount of tax liability determined pursuant to  
5 subparagraph (a) of this paragraph shall be reduced by the  
6 aggregate amount of all estate, inheritance, succession or legacy  
7 taxes actually paid to any state or territory of the United States or  
8 the District of Columbia, including inheritance, succession or  
9 legacy taxes actually paid this State, in respect to any property  
10 owned by such decedent or subject to such taxes as a part of or in  
11 connection with the estate; provided however, that the amount of  
12 the reduction shall not exceed the proportion of the tax otherwise  
13 due under this subsection that the amount of the ~~estates's~~ estate's  
14 property subject to tax by other jurisdictions bears to the entire  
15 estate taxable under this chapter.

16 (c) Notwithstanding the provisions of subparagraphs (a) and (b)  
17 of this paragraph, upon the transfer of the estate of every resident  
18 decedent dying after December 31, 2011, the tax imposed by this  
19 section shall be based upon the applicable exclusion amount  
20 determined pursuant to subsection (c) of section 2010 of the federal  
21 Internal Revenue Code of 1986 (26 U.S.C. s.2010), as amended or  
22 adjusted by federal law, rule or regulation.

23 b. (1) In the case of the estate of a decedent dying before  
24 January 1, 2002 where no inheritance, succession or legacy tax is  
25 due this State under the provisions of chapters 33 to 36 of this title  
26 or under authority of any subsequent enactment imposing taxes of a  
27 similar nature, but an estate tax is due the United States under the  
28 provisions of any federal revenue act in effect as of the date of  
29 death, wherein provision is made for a credit on account of taxes  
30 paid the several states or territories of the United States, or the  
31 District of Columbia, the tax imposed by this chapter shall be the  
32 maximum amount of such credit less the aggregate amount of such  
33 estate, inheritance, succession or legacy taxes actually paid to any  
34 state or territory of the United States or the District of Columbia.

35 (2) In the case of the estate of a decedent dying after December  
36 31, 2001 where no inheritance, succession or legacy tax is due this  
37 State under the provisions of chapters 33 to 36 of this title or under  
38 authority of any subsequent enactment imposing taxes of a similar  
39 nature, the tax imposed by this chapter shall be determined pursuant  
40 to paragraph (2) of subsection a. of this section.

41 c. For the purposes of this section, a "simplified tax system" to  
42 produce a liability similar to the liability determined pursuant to  
43 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of  
44 this section is a tax system that for the transfer of the estate of every  
45 resident decedent dying after December 31, 2001 but before January  
46 1, 2012 is based upon the \$675,000 unified estate and gift tax  
47 applicable exclusion amount in effect under the provisions of the  
48 federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in

1 effect on December 31, 2001, and for the transfer of the estate of  
2 every resident decedent dying after December 31, 2011 is based  
3 upon the applicable exclusion amount determined pursuant to  
4 subsection (c) of section 2010 of the federal Internal Revenue Code  
5 of 1986 (26 U.S.C. s.2010) as amended or adjusted by federal law,  
6 rule or regulation, and results in general in the determination of a  
7 similar amount of tax but which will enable the person or  
8 corporation liable for the payment of the tax to calculate an amount  
9 of tax notwithstanding the lack or paucity of information for  
10 compliance due to such factors as the absence of an estate valuation  
11 made for federal estate tax purposes, the absence of a measure of  
12 the impact of gifts made during the lifetime of the decedent in the  
13 absence of federal gift tax information, and any other information  
14 compliance problems as the director determines are the result of the  
15 phased repeal of the federal estate tax.

16 (cf: P.L.2002, c.31, s.1)

17  
18 2. The following sections are repealed:

19 R.S.54:33-1 through R.S.54:33-12;

20 R.S.54:34-1 through R.S.54:34-10;

21 R.S.54:34-12;

22 R.S.54:34-13;

23 R.S.54:35-1 through R.S.54:35-22;

24 R.S.54:36-1 through R.S.54:36-7;

25 R.S.54:37-1 through R.S.54:37-8;

26 section 1 of P.L.1940, c.220 (C.54:33-9.1);

27 section 2 of P.L.1985, c.57 (C.54:33-14);

28 section 1 of P.L.1955, c.135 (C.54:34-1.1);

29 section 4 of P.L.1978, c.172 (C.54:35-4.1);

30 section 1 of P.L.1947, c.369 (C.54:35-5.1);

31 section 2 of P.L.1956, c.54 (C.54:35-10.1); and

32 section 1 of P.L.1939, c.122 (C.54:35-23);

33 provided, however, for the transfer of the estate of every resident  
34 decedent dying before January 1, 2012, this repeal shall not affect any  
35 obligation, lien or duty to pay taxes, interest or penalties which have  
36 accrued or may accrue by virtue of any taxes imposed pursuant to the  
37 provisions of the laws repealed by this act, or which may be imposed  
38 with respect to any redetermination, correction, recomputation or  
39 deficiency assessment; and provided that all taxes and returns which  
40 would have been due and payable under the provisions of the laws  
41 repealed shall be due and payable as if the laws were in effect; and  
42 provided that this repeal shall not affect the legal authority of the State  
43 to audit records and assess and collect taxes due or which may be due,  
44 together with such interest and penalties as have accrued or would  
45 have accrued thereon under the provisions of the laws repealed; and  
46 provided that this repeal shall not affect any determination of, or affect  
47 any proceeding for, the enforcement thereof.

1       3. This act shall take effect immediately, but section 1 shall  
2 only apply to transfers of property and estates of resident decedents  
3 dying after December 31, 2011.

4  
5  
6                               STATEMENT  
7

8       This bill repeals the transfer inheritance tax and amends the New  
9 Jersey estate tax to increase the filing threshold and applicable  
10 exclusion amounts in accordance with the provisions of federal tax  
11 law. The bill's new estate tax system applies to transfers of  
12 property and the estates of resident decedents dying after December  
13 31, 2011.

14       Currently, New Jersey imposes a transfer inheritance tax on  
15 beneficiaries for the receipt of assets from a New Jersey resident  
16 decedent and certain New Jersey assets of nonresident decedents, as  
17 determined by the value of the assets transferred and the  
18 beneficiary's relationship to the decedent.

19       The transfer inheritance tax is one of the State's oldest taxes,  
20 originating in 1892. The tax is imposed on the transfer of all  
21 personal and real property in the estates of New Jersey resident  
22 decedents and of all tangible and real property located in New  
23 Jersey in the estates of nonresident decedents. The tax was  
24 extensively revised in 1985 to exempt from taxation transfers to  
25 spouses, ancestors and descendants of the decedent, but "lateral"  
26 transfers, bequests to brothers and sisters of the decedent or their  
27 children, and to nonrelatives are taxed at rates of up to 16%.

28       Additionally, under current law, an estate tax is imposed on the  
29 estate of a resident decedent equal to the amount of the credit  
30 allowed under federal estate tax law for state inheritances taxes  
31 paid, based on the terms of the federal estate tax in effect on  
32 December 31, 2001, or at the election of the estate, pursuant to a  
33 simplified system developed by the Director of the Division of  
34 Taxation. However, under federal tax code changes enacted in  
35 2001, the federal credit by which New Jersey's estate tax is  
36 calculated was phased-out over a four year period, with a full repeal  
37 of the federal credit taking effect in 2005. Thus, but for the  
38 enactment of P.L.2002, c.31 (C.54:38-1et seq.), which "decoupled"  
39 the New Jersey estate tax from the 2001 federal tax law changes,  
40 New Jersey's estate tax would have been completely eliminated in  
41 2005. Under current law, a New Jersey estate tax return must be  
42 filed if the decedent's gross estate plus adjusted taxable gifts  
43 determined in accordance with the provisions of the Internal  
44 Revenue Code in effect on December 31, 2001 exceeds \$675,000.

45       This bill would amend the current estate tax law to increase the  
46 filing threshold and the allowable exclusion amounts under the New  
47 Jersey estate tax from the current level of \$675,000 to the amounts  
48 applicable under the federal estate tax. Adjusted for inflation, the

1    basic federal exclusion amount for 2012, the first year in which the  
2    provisions of this bill would take effect, is \$5,120,000.

3        At present, New Jersey is one of only 18 states that imposes  
4    some form of an estate tax, and one of only seven states imposing  
5    an inheritance tax. Only two states, New Jersey and Maryland,  
6    currently impose both forms of taxation on inheritance.